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ATTORNEY'S DOCKET NO.: S1022/8141

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: BALLON, Christian
 Serial No.: 09/367,645
 Filed: December 29, 1998
 For: SUBSCRIBER INTERFACE PROTECTION CIRCUIT

Examiner: Unassigned
 Art Unit: Unassigned

Attention: - PCT Legal Staff
 Box PCT
 Commissioner for Patents
 Washington, D.C. 20231

Sir/Madam:

Transmitted herewith for filing is/are the following document(s):

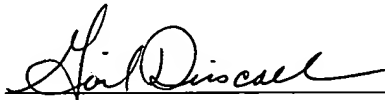
- ☒ Petition to Revive
- ☒ Return Post Card

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned collect at (617)720-3500, Boston, Massachusetts.

The enclosed check includes a \$840.00 filing fee, \$130.00 surcharge and \$1240.00 petition fee for a total of \$2,210.00. If this amount is insufficient, the balance may be charged to the account of the undersigned, Deposit Account No. 23/2825. A duplicate of this sheet is enclosed.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)


I hereby certify that this document is being placed in the United States mail with first-class postage attached, addressed to the Commissioner for Patents, Washington, D.C. 20231 on September 4, 2001.



09/17/2001 WCLAYBRD 00000003 232825 09367645

01 FC:970 Attorney Docket No. S1022/8141
 02 FC:154 X10/20/01

Respectfully submitted,



James H. Morris
 Reg. No.: 34,681
 WOLF, GREENFIELD & SACKS, P.C.
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 Boston, Massachusetts 02210
 Tel. (617) 720-3500

RECEIVED

24 SEP 2001

Legal Staff
 International Division

PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) S1022/8141
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First Named Inventor: BALLON, Christian

International (PCT) Application No.: PCT/FR98/02907

U.S. Application No.: 09/119,424

Filed: August 14, 1999

Title: SUBSCRIBER INTERFACE PROTECTION CIRCUIT

Attention: PCT Legal Staff
Box PCT
Assistant Commissioner for Patents
Washington, D.C. 20231

The above-identified application became abandoned as to the United States because the fees and documents required by 35 U.S.C. 371(c) were not filed prior to the expiration of the time set in 37 CFR 1.494(b) or (c) or 1.495(b) or (c) (as applicable). The date of abandonment is the day after the date on which the 35 U.S.C. 371(c) requirements were due. See 37 CFR 1.49(g) or 1.495(h).

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Proper reply;
- (3) Terminal disclaimer with disclaimer fee--required for all international applications having an international filing date before June 8, 1995; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

- ☐ small entity -- fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status.
See 37 CFR 1.27.
- ☒ Other than small entity -- fee \$ 1,240.00 (37CFR 1.17(m))

2. Proper Reply

- A. The proper reply (the missing 35 U.S.C. 371(c) requirements) in the form of the basic filing fee of \$840.00 (identify the type of reply):

- ☐ was previously filed on _____
- ☒ is enclosed herewith.

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03 FC:141 20.00 CH 1220.00 DP

(Page 1 of 2)

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231.

3. Terminal disclaimer with disclaimer fee

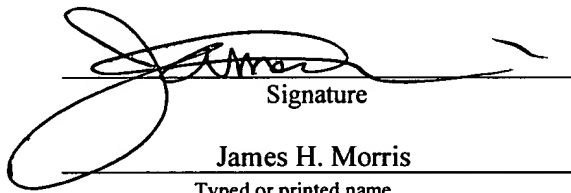
- ☒ Since this international application has an international filing date on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity of \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith. (see PTO/SB/63).

4. Statement. The entire delay in filing the required reply from the due date for the required reply until filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

September 4, 2001
Date

Telephone
Number: (617)720-3500


Signature

James H. Morris
Typed or printed name

Wolf, Greenfield & Sacks, P.C.
Address

600 Atlantic Avenue

Boston, Massachusetts 02210

- Enclosures: ☐ Response
- ☒ Fee Payment
- ☐ Terminal Disclaimer Form
- ☐ _____



AUG 20 2001

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Docket Cross Off	<input checked="" type="checkbox"/>
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Annuities	<input type="checkbox"/>
Confirmation	<input type="checkbox"/>

In re Application of
BALLON, Christian
Application No.: 09/367,645
PCT No.: PCT/FR98/02907
Int. Filing Date: 29 December 1998
Priority Date: 30 December 1997
Attorney's Docket No.: S1022/8141
For: SUBSCRIBER INTERFACE
PROTECTION CIRCUIT

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This decision is in response to applicant's "Letter to Examiner Requesting Withdrawal of Abandonment" filed on 04 June 2001. No fee is required.

BACKGROUND

On 29 December 1998, applicant filed international application PCT/FR98/02907 claiming priority to a French patent application filed 30 December 1997. A Demand for the international preliminary examination was not filed. Accordingly, the twenty-month period for paying the basic national fee in the United States expired at midnight on 30 August 1999.

On 15 August 1999, applicant filed a transmittal letter for entering the national stage in the United States under 35 U.S.C. 371, however, applicant did not include the basic national fee or provide authorization to charge counsel's Deposit Account for the required basic national fee.

On 17 November 1999, applicant claims to have called the PCT Branch of the United States Patent and Trademark Office (PTO) after discovering that the fees were not authorized to be charged from counsel's Deposit Account.

On 22 November 1999, applicant purportedly sent a check of \$840.00 for the basic national fee in the above-captioned application

On 20 November 2000, applicant filed a "Progress Inquiry" in the above-captioned application.

On 05 April 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicant failed to provide the full basic

national fee by twenty months pursuant to 37 CFR 1.494(b)(2).

On 12 April 2001, applicant submitted via facsimile various letters concerning the subject application.

On 04 June 2001, applicant filed the instant petition which was accompanied by, *inter alia*, exhibits A-J.

DISCUSSION

All Business to be Transacted in Writing

It is first noted that 37 CFR 1.2 states, in part that "[t]he action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt." Therefore, any prior discussion between applicant and the PCT Branch of the PTO concerning the above-identified international application shall have no effect on this decision.

Paying the Basic National Fee

A review of the above-identified application confirms that the U.S. basic national fee was not properly paid prior to the expiration of twenty months from the earliest claimed priority date. Applicant did not include a check for the basic national fee when entering the national stage or provide authorization for the PTO to charge the required fee to counsel's Deposit Account.

In the instant petition to withdraw the holding of abandonment, applicant has not alleged that the proper basic national fee was provided prior to 30 August 1999. Consequently, the subject application was properly abandoned pursuant to 35 U.S.C. 371(d) and 37 CFR 1.494(b)(2) by the DO/EO/US.

Applicant Paid \$840.00 on 22 November 1999

Applicant also provided a date stamped filing receipt that a check of \$840.00 was received for the above-captioned application on 22 November 1999. MPEP 503 states that a postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Therefore, applicant has provided *prima facie* evidence that a check of \$840.00 was received by the PTO for the above-identified application on 22 November 1999.

However, the postcard receipt does not serve as *prima facie* evidence that the

check was cashed by the PTO. A review of the financial records does not demonstrate that a check of \$840.00 was cashed in the above captioned application. Applicant must provide evidence that the \$840.00 check (No. 17101) was cashed by the PTO to be credited for this money.

It is also noted that the DO/EO/US inadvertently charged the \$840.00 basic national fee from Deposit Account No. 23-2825 without proper authorization on 25 August 1999. This was a mistake. The \$840.00 was credited back to Deposit Account No. 23-2825 on 13 February 2001.

DECISION

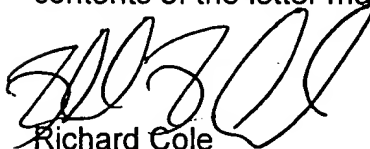
For the reasons discussed above, applicant's petition requesting to withdraw the holding of abandonment is **DISMISSED** without prejudice.

The above-captioned remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw Holding of Abandonment."

Applicant may wish to file a petition to revive the above-captioned application pursuant to 37 CFR 1.137(a) or 1.137(b).

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.


Richard Cole
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PCT Legal Office


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